

therefore chose not to file public comments. Both taxing authorities want to determine if the telecom issues of whether the June 1996 end-user inflicted shortfall charges were permissible in the first place, so as to then apply their tax rates if the FCC determined the shortfall and termination charges permissible as to these particular CSTPII/RVPP plans.

See Request for Extension of Time to File Reply Comments at 4. The TAC letter makes clear that these claims are untrue. It identifies no “investigation” by the IRS itself, but rather the fact that Mr. Inga has brought his own tax rewards case in the hopes of recovering a private bounty. Both its official website and the April 4th letter clarify that TAC does not represent the official views of the IRS or speak on its behalf and that it instead serves as an advocate for taxpayers within the IRS. Certainly, as a former Enrolled Agent, Mr. Inga could not have believed that a TAC letter written at his request—if not, in fact, by Mr. Inga himself—somehow constituted support for his oft-repeated assertion that the IRS thought “petitioners Declaratory Rulings addressed [that agency’s] interests.” In fact, the TAC letter simply demonstrates that Mr. Inga has employed TAC as part of his persistent campaign to mislead the Commission, and misuse its processes, in order to pursue his own alleged financial interests before the IRS.

B. Mr. Inga’s Overall Conduct Before The Commission Merits Sanctions.

This utterly improper conduct, moreover, is simply the latest in a series of manipulative practices that began before the district court and has continued unabated since. While the Commission obviously cannot sanction Mr. Inga for his conduct before the District Court (and AT&T is not asking that it do so), it is clearly relevant here that Mr. Inga’s tortuous and vexatious campaign to raise the shortfall and discrimination claims before the Commission resulted entirely from his own gamesmanship before the District Court. Mr. Inga had ample opportunity to ask Judge Bassler to refer the shortfall and discrimination issues to the Commission. But Mr. Inga did not want to return to the Commission (and D.C. Circuit) on the

“all obligations” issue. His lawyer therefore filed no fewer than six separate pleadings (including a motion for reconsideration) arguing that there was no need to return to the Commission on this “sole” open issue. Having gambled and lost on this strategy—and having agreed on the eve of re-instituting this proceeding that there was but one issue to be resolved—Mr. Inga changed his mind and launched his baseless campaign to obtain consideration of issues he had quite purposefully failed to ask Judge Bassler to refer. That campaign consisted of (1) filing a declaratory ruling request and reply comments addressed to issues that he had agreed, through Mr. Helein, were not encompassed by the referral; (2) enlisting the aid of other commenters, who simply signed their names to submissions that repeated verbatim Mr. Inga’s overly long and tendentious arguments for why the Commission should address these issues; (3) filing a baseless petition under the name of a corporate alter ego, then seeking to have it consolidated with this proceeding; (4) filing a baseless request for reconsideration with multiple comments, ex-parte filings and emails in support of that request; (5) including, within those submissions, patently false statements about the history of the proceedings and arguments made before Judge Bassler; and (6) submitting the fabricated IRS letter in support of—or, in his view, to moot—portions of that reconsideration request. Having subjected the Commission and AT&T to this incessant onslaught of intemperate and baseless arguments, Mr. Inga then simply abandoned it based on another purely expedient decision—to ask a new United States District Judge to refer these issues.

This is an indisputably “abusive course of conduct” meriting the harshest of sanctions. *Litigation Trust Recovery*, 17 FCC Rcd at 21858. Indeed, Mr. Inga has taunted AT&T about the costs he has imposed on it. At the same time, he has made outrageous and unfounded accusations against virtually every lawyer who has represented or spoken on behalf of AT&T

over the course of this 12-year dispute. Both his accusations and his tactics “go beyond legitimate advocacy,” *In re Lockheed Martin Corp.*, 18 FCC Rcd 16605, 16612 (2003), and have imposed undue burdens on AT&T and the Commission.

Accordingly, AT&T believes that appropriate sanctions for Mr. Inga’s extraordinary misconduct include not only summary dismissal of the pending and frivolous *Tips Petition*, but also summary rejection of his claims for a declaratory ruling on the “all obligations” issue. *See Litigation Trust Recovery*, 17 FCC Rcd at 21858 (noting that summary rejection is an appropriate sanction for an abusive course of conduct). By making numerous highly misleading and false statements, submitting fabricated government documents to the Commission in an effort to influence its decision-making, and repeatedly changing tactics and positions, Mr. Inga (who is president of the petitioners) has forfeited his right to obtain any affirmative relief from the Commission. In these circumstances, the only appropriate sanction is the entry of an order that summarily holds that AT&T’s refusal to process the CCI-PSE transfer was compelled by § 2.1.8, which required PSE to agree in writing to assume “all” of CCI’s obligations, including its obligation for shortfall charges. While this result is also compelled by the plain language of § 2.1.8 itself, Mr. Inga’s egregious misconduct disqualifies him and his companies from using the Commission’s processes to contest this issue, or any of the other issues, that he and his companies have attempted to raise.

CONCLUSION

For the foregoing reasons, AT&T respectfully requests that its motion for sanctions be granted.

Respectfully submitted,

/s/ Peter H. Jacoby

Paul K. Mancini

Gary L. Phillips

Peter H. Jacoby

AT&T Services, Inc.

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Suite 1000

Washington, D.C. 20036

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(202) 736-8000

Richard H. Brown

DAY PITNEY LLP

P.O. Box 1945

Morristown, NJ 07962-1945

(973) 966-6300

Attorneys for AT&T Corp.

June 12, 2007

CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of June, 2007, I served the foregoing “Motion for Sanctions Against Mr. Alfonse Inga and Petitioners” by first class mail to the following:

Frank P. Arleo
Arleo & Donohue, LLC
622 Eagle Rock Avenue
Penn Federal Building
West Orange, NJ 07052

Larry G. Shipp, Jr.
Combined Companies, Inc.
6233 W. 60th Avenue
Suite 202
Arvada, CO 800003

Philip Okin
800 Services, Inc.
11 West Passaic St.
Rochelle Park, WV 07662

/s/ Joseph R. Guerra
Joseph R. Guerra

Exhibit 1

Date:

3/14/07

Department of the Treasury
Internal Revenue Service
INTERNAL REVENUE SERVICE
WAGES AND INVESTMENT DIVISION
200 SHEFFIELD ST
TAXPAYER'S SERVICE
MOUNTAINSIDE, NJ 07092

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Attention

From

NAME

IRS Tax Reward Dept. Inpayer Service
JCC Case Contact

Phone

FAX (908) 301-2332

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Subject

MESSAGE:

URGENT () FOR REVIEW () PLEASE COMMENT () PLEASE REPLY ()

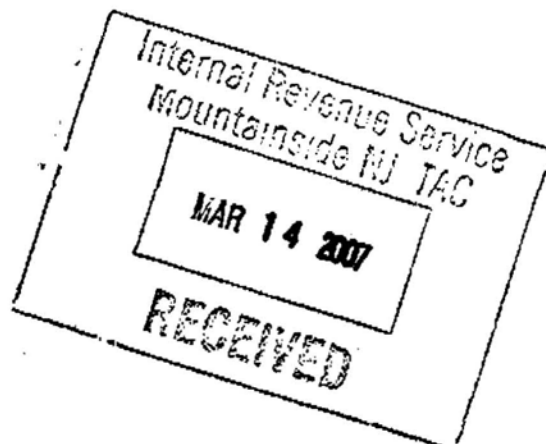
On Behalf of Inpayer &
The MountainSide POD

Confidentiality Notice

The information contained in this facsimile message is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify the sender immediately by phone, and return the communication at the above address via the United States Postal Service.

Mr. Albert Lewis
Case Contact Manager Deena Shetler
Federal Communications Commission (FCC)
445 12th Street SW
Washington DC 20554
Wireline Competition Bureau
Pricing Policy Division

Dear FCC



Primary Jurisdiction Referral Questions

Please resolve all declaratory ruling requests made by petitioners within case 06-210 currently before the FCC; involving both the permissibility and proper method of infliction of shortfall and termination phone service charges.

Specifically, the periods to cover are from June 17th 1994 through the end of the grandfathered CSTPII/RVPP plan period(s) to be determined by the FCC. Also declare whether the application of shortfall and termination phone service charges, billed to the end-users in excess of the end-users discounts by AT&T in June of 1996 and March 1997, were a proper tariffed remedy and could be relied upon by AT&T.

The FCC Declaratory Rulings will determine multiple tax issues for the IRS rewards department.

Thank you,
IRS

Exhibit 2



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
200 Sheffield St. Mountainside NJ 07092

Large Mid Sized Business Division

Date: March 23, 2007

Jeffrey Tutnauer
AT&T Inc.
One AT&T Way
Room 4A229
Bedminster NJ 07921

Person to Contact:
Roy Schwarmann
Telephone Number:
908-301-2130
Refer Reply To:
LMSB: Exam Group 1349

Dear AT&T Inc.

Please be advised that a letter addressed to the Federal Communications Commission with a "Mar 14 2007" date received stamp from the Internal Revenue Service Mountainside NJ TAC was not prepared or authorized by the Internal Revenue Service. See attached copy of such letter.

It was faxed by an employee of the Internal Revenue Service to the fax number 973-787-1050 at the bequest of a taxpayer who walked into the Mountainside NJ Internal Revenue Service Taxpayer Service Office.

If you have any questions please call me.

Yours truly,

A handwritten signature in black ink, appearing to read "Roy Schwarmann", with a long horizontal line extending to the right.

Roy Schwarmann
Team Coordinator
Badge # 22-06247

Exhibit 3

Guerra, Joseph R.

From: Mr. Inga [freerecdeptsrvcc@optonline.net]

Sent: Thursday, April 12, 2007 3:46 PM

To: Brown, Richard; Guerra, Joseph R.; Frank Arleo; phillo@giantpackage.com; LGSJr@usa.net; Joe Kearney; Deena Shetler; fcc@bcpiweb.com

Subject: Case 06-210 : Regarding IRS Referrals on All Shortfall Claims

Deena

We ask the FCC **not** to rely upon the March 14th 2007 primary jurisdiction referral on shortfall claims and instead **only rely upon** the one the IRS recently sent directly to the FCC to resolve all shortfall claims in case 06-210.

We are sure that eventually the FCC will post this second IRS primary jurisdiction referral on the FCC Server.

Thank you,

Al Inga Pres.
Tips Marketing Services, Corp.

Exhibit 4



06-210

Dear FCC
Mr. Albert Lewis
& Deena Shetler
Federal Communications Commission (FCC)
445 12th Street SW
Washington DC 20554
Wireline Competition Bureau
Pricing Policy Division
Fax 202-418-1567

FILED/ACCEPTED

APR - 4 2006

Federal Communications Commission
Office of the Secretary

Expedited Primary Jurisdiction Referral Requests

Dear FCC

I am the office manager for the IRS Taxpayer Advocate Center for the State of NJ. I have confirmed with the IRS Rewards/Investigation Department that the taxpayer has an active tax rewards case before the IRS. The IRS tax rewards/investigation department recommended taxpayer contact TAC for the FCC referral to resolve an IRS impasse. Under the IRS rewards program (IRS Form 211) the taxpayer has standing involving the outcome of the IRS's ability to collect taxes that may be owed by AT&T. The Taxpayer Advocate Center is indeed authorized to resolve issues that are at an impasse at the IRS, as this one. Determining the telecom issues to determine the tax base will solve the IRS impasse. Therefore, please resolve all declaratory ruling requests on shortfall issues made by petitioners vs. AT&T within case 06-210 currently before the FCC, involving both the permissibility and proper method of infliction of shortfall and termination phone service charges.

Please interpret:

- A) The duration that an aggregator is grandfathered using the June 17th 1994 tariff provision.
- B) The permissibility of using section 2.5.7 to waive shortfall and termination charges
- C) The FCC's Oct 1995 Order vs. AT&T extending the grandfather provision.
- D) The tariffed August 29th shortfall credit
- E) Shortfall application illegal remedy- Could AT&T rely on shortfall if improperly applied.
- F) AT&T tariff Section 3.3.1.Q bullet 10 regarding whether the shortfall charges are the responsibility of the aggregator.
- G) Whether section 201(b) would be utilized to avoid shortfall and termination charges if the aggregator was in the middle of a long term contract and the pre June 17th 1994 provision was no longer usable.

An expedited FCC decision on all of the Declaratory Rulings Requested by petitioners, on the telecom issues, will determine multiple tax issues to then determine tax ramifications.

Thank you

Kathy Jordan, Case Advocate 973-921-4261

Exhibit 5

-----Original Message-----

From: Mr. Inga [mailto:freerecdeptsrvcoptonline.net]

Sent: Friday, May 11, 2007 11:09 AM

To: Deena Shetler; Guerra, Joseph R.; Brown, Richard; Frank Arleo; chh@commlawgroup.com; lgsjr@usa.net; Joe Kearney; phillo@giantpackage.com

Subject: AT&T COPY: 5_11_07 Minimum Payment Period Analysis

Joe & Rich

See attached. You guys should love me. I keep you going with lots of billable hours. I should be on your Christmas present list.:-) Al

On a nother nort:

AT&T Reminder: Petitioner's would like a courtesy copy of the 1995 oral argument transcript before Judge Politan. AT&T obviously has it as Mr. Whitmer's March 30th 1995 brief qotes from a specific page of that transcript.

Frank if AT&T does not respond to you on this by Monday send a letter to Judge Wigenton advising her that AT&T has been asked to supply the oral argument transcript and has not responded.

Al Inga

Exhibit 6

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

COMBINED COMPANIES, INC.,	:	Civil Action No. 95-908 (WGB)
a Florida corporation,	:	
	:	
and	:	
	:	
WINBACK & CONSERVE PROGRAM,	:	
INC., ONE STOP FINANCIAL, INC.,	:	
GROUP DISCOUNTS, INC. and 800	:	
DISCOUNTS, INC., New Jersey	:	
corporations,	:	
	:	
Plaintiffs,	:	
v.	:	
	:	
AT&T Corp., a New York corporation.	:	
	:	
Defendant.	:	

**BRIEF IN SUPPORT OF MOTION FOR RE-ARGUMENT,
PURSUANT TO LOCAL RULE 7.1(g)**

ARLEO & DONOHUE, L.L.C.
622 Eagle Rock Avenue
Penn Federal Building
West Orange, New Jersey 07052
(973) 736-8660 Fax (973) 736-1712
(FPA 0801)
Attorneys for Plaintiffs, Winback &
Conserve Program, Inc., One Stop Financial,
Inc., Group Discounts, Inc. and 800
Discounts, Inc.

On the Brief:
Frank P. Arleo, Esq.

PRELIMINARY STATEMENT

On behalf of plaintiffs Winback & Conserve Program, Inc., One Stop Financial, Inc., Group Discounts, Inc. and 800 Discounts, Inc. ("the Inga plaintiffs"), we respectfully submit this brief in support of the Inga plaintiffs' motion for re-argument, pursuant to Local Rule 7.1(g).

This matter concerns the interpretation of AT&T Tariff 2.1.8. Over 10 years ago, AT&T refused to approve the partial transfer of traffic from Plaintiffs' plans, arguing that 2.1.8 did not permit partial traffic transfers. After winding its way through the New Jersey Federal courts and the FCC, the D.C. Circuit Court of Appeals ruled that 2.1.8 permits partial traffic transfers. Thus, the D.C. Circuit conclusively decided the sole question referred by the Third Circuit to the FCC.

AT&T asserts that the primary jurisdictional referral that originated in this District Court was not limited to determine if 2.1.8 permitted traffic transfers; but whether such transfers could be permitted given the size of the traffic transfer. The point is that the District Court fully understood based on substantial briefs and a two-day hearing "which obligations" transferred. This District Court understood in 1995 that S&T obligations do not transfer on traffic transfers.

Due to AT&T's illegal remedy, the size of the transfer is no longer an issue. The only issue is "which obligations" transfer and that this issue, the FCC, AT&T and plaintiffs all agree.

Because the D.C. Circuit decided the issue referred by the Third Circuit, the Inga plaintiffs moved to lift the stay imposed by this Court in 1995. By Opinion and Order dated May 31, 2006, this Court declined to lift the stay. In denying the Inga plaintiffs' motion, this Court held that the FCC must determine precisely which obligations under 2.1.8 accompany partial traffic transfers.

Exhibit 7

-----Original Message-----

From: Charles H. Helein [mailto:chh@thlglaw.com]

Sent: Thursday, August 24, 2006 1:35 PM

To: eric.einhorn@att.com

Subject: USDC Referral to FCC

Mr. Einhorn:

The U.S. District Court for New Jersey issued an order that referred an issue to the FCC for resolution.

The issue you are being contacted about is to determine if AT&T will agree to using a declaratory ruling proceeding by which to obtain the FCC's decision. The alternative is to proceed by formal complaint.

The duty to file with the FCC is the plaintiffs', the Inga Companies, not AT&T's.

The situation arises from litigation that was commenced in 1995 but is currently under an administrative stay issued by the court in 1996 or 1997. The pertinent citations by way of background are as follows.

Combined Companies, Inc, et al v. AT&T Corp., Civ. Action No. 95-908 (NHP),
U.S.D.C.D.N.J.

Letter Opinion May 19, 1995 by Judge Politan in the captioned case.

Combined Companies, Inc. v. AT&T, No. 96-5185 (3rd Cir. May 31, 1996)

FCC MO&O, FCC 03-244, 10/14/03

AT&T v. FCC, DC CIR. No. 03-1431, 394 F.3d 933, 939 (DC Cir. 2005) -
(<http://pacer.cadc.uscourts.gov/docs/common/opinions/200501/03-1431a.pdf>)

Letter Order in Combined Companies, Inc, et al v. AT&T Corp., Civ. Action No. 95-908, August 7, 2006.

It is this last listed decision that presents the question of how to Proceed before the FCC.

The outside counsel for AT&T who you can contact about all this is Richard Brown, Pitney, Hardin ... 973-966-8119, rbrown@pitneyhardin.com.

The August 7, 2006 Letter Order was issued by Judge Bassler and directed The plaintiff to file with the FCC by October 1, 2006.

The plaintiffs are former aggregator companies - Winback & Conserve Program, Inc., One Stop Financial, Inc., Group Discounts, Inc., and 800 Discounts, Inc., all owned by Alphonse G. Inga, the "Inga Companies."

The issue it is believed is purely legal involving no disputed facts
Making the proper proceeding a declaratory ruling. In addition, it seems clear
that having filed a complaint in 1995 against AT&T with the federal
court, Section 207 of the act bars bringing this matter before the FCC by a
formal complaint.

The issue arises from the DC Circuit's decision in 2005.

The issue is - What obligations, if any, transfer under Section 2.1.8 of
AT&T's Tariff FCC No. 2 when an aggregator or other customer transfer
The benefits of 800 service pursuant to Section 2.1.8? The August 7th
Letter Order directed the Inga Companies to file with the FCC pursuant to Part
1 of its rules to get an answer to this issue.

This email seeks AT&T's agreement that the proper proceeding to file
with the FCC is a Petition for Declaratory Ruling.

Please let us know if there are any questions.

Charles H. Helein
The Helein Law Group, P.C.
Washington, D.C.

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